

FILED

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

FEB 17 2016

Clerk, U.S. District Court
District Of Montana
Great Falls

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RICHARD SILVERWHIP ST.
MARKS,

Defendant.

CR 10-63-GF-BMM

ORDER

This case was referred to United States Magistrate Judge John Johnston for a revocation hearing and findings and recommendations. Judge Johnston entered his findings and recommendations on February 2, 2016. Defendant admitted he had violated Special Condition 1 of his supervised release by failing to report for substance abuse testing, and he had violated Standard Condition 2 of his supervised release by failing to submit monthly reports as directed. Judge Johnston found the admissions sufficient to establish the supervised release violations. He recommended that this Court revoke Defendant's supervised release and commit him to the custody of the United States Bureau of Prisons for a term of imprisonment of eight months, with 12 months of supervised release to follow.

No objections were filed by either party. Judge Johnston's findings

and recommendations are therefore reviewed for clear error. *McDonnell Douglas Corp. Commodore Bus. Mach, Inc.*, 656 F.2d 1309, 1319 (9th Cir. 1981).

This Court agrees with Judge Johnston's findings. Defendant admitted he had violated Special Condition 1 and Standard Condition 2. Defendant could be incarcerated for up to 24 months, followed by 31 months of supervised release less any custody time imposed. The United States Sentencing Guidelines call for a term of imprisonment of five to 11 months. A sentence of eight months in custody, followed by 12 months of supervised release is appropriate. The sentence is sufficient but not greater than necessary.

IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 123) are ADOPTED in full and Judgment shall be entered accordingly.

DATED this 17th day of February, 2016.

A handwritten signature in cursive script, reading "Brian Morris".

Brian Morris
United States District Court Judge